

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

216 JAMAICA AVENUE, LLC,) Civil Action No. 06-1288
Plaintiff,)
v.) JUDGE CHRISTOPHER A. BOYKO
S & R PLAYHOUSE REALTY CO.,)
Defendant.)

**REPORT OF PARTIES' PLANNING MEETING
UNDER FED. R. CIV. P. 26(f) AND L.R. 16.3(b)**

- 1) Pursuant to Fed. R. Civ. P. 26(f) and L.R. 16.3(b), a meeting was conducted by telephone on July 13, 2006, and was attended by David H. Thompson and David Lehn, counsel for plaintiff, 216 Jamaica Avenue LLC (“216 Jamaica”), and Stephen D. Williger, counsel for defendant, S & R Playhouse Realty Co. (“S & R Playhouse”).
 - 2) The parties will exchange pre-discovery disclosures required by Fed. R. Civ. P. 26(a)(1) and the Court’s Order by August 7.

- 3) The parties recommend that this case proceed on the Standard track.
 - 4) This case is suitable for ECF.
 - 5) The parties have discussed and are willing to discuss further the possibility of pursuing ADR or settlement, provided that the ultimate resolution of this dispute is not delayed.
 - 6) 216 Jamaica does not consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).
- 7) Recommended Discovery Plan:
- a) 216 Jamaica does not anticipate a need for extensive discovery because this case turns primarily on the meaning of a federal statute and the terms of two contracts (the Lease and the 1982 Assignment), and because it anticipates that the parties will be able to stipulate to any material facts. S & R Playhouse believes that discovery is necessary but is willing to stay discovery pending resolution of its motion to dismiss and 216 Jamaica's initial motion for summary judgment (*see* § 9 below) in order to reduce litigation expenses. 216 Jamaica proposes that discovery remain open until at least 14 days after S & R Playhouse serves its motion to dismiss, at which time the parties can discuss whether it is appropriate to stay discovery pending resolution of S & R Playhouse's motion to dismiss and 216 Jamaica's initial motion for summary judgment. If the Court denies both S & R Playhouse's motion to dismiss and 216 Jamaica's initial motion for summary judgment, the parties will require complete discovery before filing additional dispositive motions.
 - b) The parties agree that fact discovery should be completed within 180 days after the Court's resolution of S & R Playhouse's motion to dismiss and 216 Jamaica's initial

motion for summary judgment (*see* § 9 below), unless the Court stays discovery, in which case fact discovery should be completed within 180 days after the stay is lifted.

- c) 216 Jamaica does not anticipate any need for an expert witness, but reserves the right to prepare an expert report should the need arise. The parties agree that such expert report should be due 30 days after the completion of fact discovery cutoff.
 - d) S & R Playhouse does not know at this time if it will require any expert witnesses, but reserves the right to prepare an expert report(s) should the need arise. The parties agree that such expert report should be due 30 days after 216 Jamaica's expert report is due. In the event that 216 Jamaica does not exchange an expert report, S & R may prepare and exchange an expert report with 60 days after fact discovery cutoff and 216 Jamaica will have 60 days to file a rebuttal expert report.
 - e) Should expert discovery become necessary, the parties propose that it be completed within 60 days after the exchange of all expert reports.
- 8) 216 Jamaica proposes that the cutoff date for amending the pleadings and adding additional parties be September 15, 2006. S & R Playhouse proposes that the cutoff date be December 31, 2006.
- 9) S & R Playhouse will file a motion to dismiss in lieu of an answer and 216 Jamaica intends file an initial motion for summary judgment soon thereafter.¹ The parties accordingly propose the following briefing schedule:
- a) S & R Playhouse's motion to dismiss shall be due by August 7, 2006.

¹ 216 Jamaica anticipates that its initial summary judgment motion will seek disposition of this case solely on the basis of legal questions and stipulated or undisputed facts, and therefore that no discovery will be necessary to resolve its motion.

- b) 216 Jamaica's brief in opposition to S & R Playhouse's motion to dismiss shall be due 60 days thereafter.
- c) S & R Playhouse's reply brief in support of its motion to dismiss shall be due 45 days thereafter.
- d) Although 216 Jamaica is not required to file its initial motion for summary judgment at any particular time, it intends to file it simultaneously with its brief in opposition to S & R Playhouse's motion to dismiss.
- e) S & R Playhouse's brief in opposition to 216 Jamaica's initial motion for summary judgment shall be due 60 days thereafter.
- f) 216 Jamaica's reply brief in support of its initial motion for summary judgment shall be due 45 days thereafter.

If the Court denies both S & R Playhouse's motion to dismiss and 216 Jamaica's initial motion for summary judgment, any additional dispositive motions will be due 60 days after the completion of all discovery.

- 10) The parties believe that the Court's resolution of any dispositive motions would benefit from oral argument, and therefore propose that oral argument be held at the court's earliest convenience after the conclusion of the briefing of S & R Playhouse's motion to dismiss and 216 Jamaica's initial motion for summary judgment.
- 11) The parties propose that a status conference be held 30 days after S & R Playhouse's motion to dismiss and 216 Jamaica's initial motion for summary judgment have been adjudicated.

July 27, 2006

/s/ Stephen D. Williger,
per telephone consent

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2006 a copy of the foregoing was filed electronically. Notice of this filing will be sent to the parties by operation of the Court's electronic filing system. The parties may access this filing through the Court's system.

/s/ James B. Niehaus

Attorney for Plaintiff